

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IYAN MAYES,

Plaintiff,

Case Number: 12-11344

v.

HON. AVERN COHN

MICHIGAN DEPARTMENT OF
CORRECTIONS, et al,

Defendants.

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ORDER ADOPTING REPORT AND RECOMMENDATION (Doc. 40)
AND
DISMISSING CASE FOR LACK OF PROSECUTION

I.

This is a pro se prisoner civil rights action brought under 42 U.S.C. § 1983. Plaintiff Iyan Mayes claims that the Michigan Department of Corrections (MDOC) and others at three correctional facilities were deliberately indifferent to his medical needs in violation of the Eighth Amendment to the United States Constitution. The matter has been referred to a magistrate judge for all pretrial proceedings.

When plaintiff filed his Complaint on March 26, 2012, he was an inmate with the Michigan Department of Corrections. Plaintiff has since been released on parole. Plaintiff, however, has not provided the Court a new address, as required by E.D. Mich. LR 11.2. As such, on April 19, 2013, the magistrate judge entered an order directing plaintiff to explain by May 20, 2013 why the case should not be dismissed based on lack of prosecution. (Doc. 36). The order and the notice regarding plaintiff's responsibility to notify the Court of an address change were sent to plaintiff at his correctional facility

address. Both documents were returned as undeliverable. (Docs. 37, 39). The order and notice were also sent to plaintiff's parole officer. Plaintiff did not respond to either the notice regarding providing an address or the order to show cause. Accordingly, on May 21, 2013, the magistrate judge entered a report and recommendation (MJRR), recommending that the case be dismissed under Fed. R. Civ. P. 41(b) for lack of prosecution. (Doc. 40). The magistrate judge again mailed the MJRR to plaintiff's correctional facility address. It was returned as undeliverable (Doc. 41). The MJRR was also mailed to plaintiff's parole officer.

Plaintiff has not objected or otherwise responded to the MJRR and the time for filing objections has passed. The failure to file objections to the MJRR waives any further right to appeal. Smith v. Detroit Federation of Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the MJRR releases the Court from its duty to independently review the motions. Thomas v. Arn, 474 U.S. 140, 149 (1985). However, the Court has reviewed the MJRR and agrees with the magistrate judge.

III.

Accordingly, the findings and conclusions of the magistrate judge are ADOPTED as the findings and conclusions of the Court. This case is DISMISSED.

SO ORDERED.

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: June 11, 2013

12-11344 Iyan Mayes v. MDOC

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, June 11, 2013, by electronic and/or ordinary mail.

S/Sakne Chami
Case Manager, (313) 234-5160